Supreme Court, U.S.
FILED

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No.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

Robert B. LeBlanc; Joan S. LeBlanc,

Jointly And Severally,

Petitioners,

v.

WARD LAKE DRILLING, INC.,

Respondent.

Petition for Writ of Certiorari to the

United States Court of Appeals

for the Sixth Circuit

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SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI

AND

APPENDIX TO PETITION

By: Robert B. LeBlanc, Pro Se

On Behalf of himself and his wife Joan

9300 Island Drive, Grosse Ile

Michigan 48138 (313) 675 - 0323

QUESTIONS PRESENTED

1) Whether the State descended from its plane of sovereignity upon leasing its mineral rights to WARD LAKE DRILLING, INC..

2) Whether the LeBlancs lost any "certain rights" by duly removing case to Federal court on March 9, 1992.

3) Whether the LeBlancs are entitled to analogous constitutional protections justly afforded in Hickey v. Stewart, 3 How. 750 (1845) under similar circumstances.

4) Whether the Federal courts remain duly obligated by 28 U.S.C. § 1359 to rightfully dismiss WARD LAKE DRILLING, INC.'s case.

THE PARTIES

The petitioners (LeBlancs) are named in the caption. WARD LAKE DRILLING, INC. (Ward Lake) is the respondent as is listed in the caption. The State of Michigan is a "real party in interest" with Ward Lake under Federal Rule of Civil Procedure 17(a). See, infra, at pages 7-12 of the Reasons For Granting The Writ, § I for a justified designation under the circumstances.

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for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States of America:

Petitioners, Robert B. LeBlanc; Joan S. LeBlanc (LeBlancs), Jointly and Severally in propria persona, respectfully pray that a Writ of Certiorari issue to review the

Order of the United States Court of Appeals for the Sixth Circuit entered on July 6, 1994 granting Dismissal of the LeBlancs Appeals in favor of WARD LAKE DRILLING,INC. (Ward Lake), and the Order of the United States Court of Appeals for the Sixth Circuit entered on August 25, 1994 denying the LeBlancs Petition for Rehearing.

OPINIONS BELOW

The Order granting Ward Lake's Motion of Dismissal of the LeBlancs Appeals by the United States Court of Appeals for the Sixth Circuit is not officially reported and is reproduced in the appendix herewith at pages 1a - page 4a.

The Order of the United States Court of Appeals for the Sixth Circuit denying the LeBlancs Petition for Rehearing is not officially reported and is reproduced in the appendix herewith at pages 5a - pg. 7a.

JURISDICTIONAL STATEMENT

The Order Dismissing Appeals of the petitioners LeBlanc by the United States Court of Appeals for the Sixth Circuit was entered on July 6, 1994. The Order denying LeBlancs Petition for Rehearing by the United States Court of Appeals for the Sixth Circuit was entered on August 25, 1994. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION AND STATUTES

United States Constitution, Amendment 9:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

28 U.S.C. § 1359:

"A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise,

has been improperly or collusively made or joined to invoke the jurisdiction of such court."

Michigan Compiled Laws (M.C.L.) 554.281 [P.A. 1929, Section 81]:

Section 1. ..."If the lessee, his successors or assigns, shall not notify the register of deeds as above provided, then the register of deeds shall record said affidavit and thereupon the <u>said lease shall be null and void and of no legal effect</u>, and thereafter the record of the said lease shall not be notice to the public of the existance of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns against the lessor, his successors or assigns." (Underlined emphasis added.)

STATEMENT OF THE CASE

This case stems from the mandate of M.C.L. 554.281 (oil, gas, or mineral lease "forfeiture" statute) as applied to the rights and duties emanating from its due application to private persons who lease their own oil, gas, or mineral rights to land in the State of Michigan.

A. The "Forfeiture"

Under the express authority of M.C.L. 554.281, on August 5, 1991, the Otsego County Register of Deeds recorded the LeBlancs "affidavit of forfeiture" and thereby extinguishing the mineral lease that had existed prior to August 5, 1991 between Ward Lake and the LeBlancs.

B. The Resurrection of Non-Existant Lease

Some ($6\frac{1}{2}$) months after the August 5, 1991 recording of the LeBlancs "affidavit of forfeiture", Ward Lake commenced a four-

count civil action against the LeBlancs in the Otsego County Circuit Court of Michigan. Ward Lake premised its entire case on the lease that had, on August 5, 1991, become "null and void and of no legal effect."

C. The Removal to the Federal Court Forum

The LeBlancs didnot file any pleadings whatsoever in the State court except for notice of removal on March 9,1992. On March 9, 1992, the LeBlancs removed the case from the State court to the Federal court for the reason that Ward Lake's case presented a Federal Question under 28 U.S.C. § 1331. Removal was made under 28 U.S.C. § § 1441(a) and 1441(e).

D. The Proceedings

The LeBlancs were unsuccessful in persuading the Federal district court as well as the United States Court of Appeals for

the Sixth Circuit that United States Supreme Court case law precedent together with 28 U.S.C. § 1359's application would bring about a justly proper and reasonable disposition of this case.

REASONS FOR GRANTING THE WRIT

I. THE STATE OF MICHIGAN DESCENDED FROM ITS PLANE OF SOVEREIGNITY, IT IS PRO HAC VICE A PRIVATE PERSON, AND SAID STATE IS BOUND ACCORDINGLY.

The State of Michigan entered into a mineral lease agreement with Ward Lake so as to lease said State's certain mineral rights and whereby the LeBlancs own only the surface rights to this certain tract of land. Authority of case law precedent of this Court titled Hall v. State of Wisconsin, 103 U.S. at 11 (1880) provides:

"When a state descends from the plane of its sovereignity, and contracts with private persons, it is regarded pro hac vice as a private person itself, and is bound accordingly. Davis v. Gray, 16 Wall. 203."

Next, as is set forth in Robert L. Clinton's book titled, "Marbury v. Madison and Judicial Review", 1989 [University Press of Kansas], at pages 19-20 citing William Blackstone's 10th Rule of Statutory Construction as applicable to this case:

"Thus if an act of parliment gives a man power to try all causes, that arise within his manor of Dale; yet, if a cause should arise in which he himself is party, the act is construed not to extend to that; because <u>it is unreason-</u>

able that any man should determine his own quarrel." (Underlined emphasis added.)

The LeBlancs contend that the State of Michigan cannot, under the circumstances, transform itself into a chameleon like creature at its whim and caprice by once assuming the status of a private person on the one hand, and then into a sovereign power on the other hand. Specifically, once the State of Michigan entered the marketplace, and contracted by lease agreement with Ward Lake, said State became a private person by law. Further, because the LeBlancs own the surface rights to this tract of land per deed restrictions, therefore, the State of Michigan's relationship with the LeBlancs remains that of a private person. In other words, to let the State of Michigan enjoy

the best of both worlds (private person and sovereign) would contradict Blackstone's longstanding doctrine of unreasonableness.

Thirdly, the State of Michigan receives Royalty payments from its mineral lease agreement with Ward Lake and thereby creating a pecuniary interest and thus a genuine "conflict of interest" between said State and the LeBlancs on this tract of land. This particular tract of land is taxed at the same rates as is land that is owned by neighboring private persons. The significant difference is that the State of Michigan owns the mineral rights, receives Royalties, and full use of this tract of land and the LeBlancs are taxed as if the LeBlancs own the mineral rights. Also, the LeBlancs receive no Royalties from this tract of land, yet, the LeBlancs pay all property

taxes for said land.

Lastly, a pipeline from a contiguous tract of land next to the tract at issue, crosses said tract with the LeBlancs as the surface owners who, by deed restrictions, are justly entitled to receive just compensation from said pipeline's crossing, but, the LeBlancs have not received compensation from either the State of Michigan or from Ward Lake. Again, a "conflict of interest" is clearly present.

Therefore, the relationship between the State of Michigan and the LeBlancs remains that of one constituting a relationship between private persons. The State of Michigan's aforesaid prejudicial "conflicts of interest" prohibited said State's courts and its officers from adjudicating and intervening in this case since the State of

Michigan constituted a "real party in interest" under Federal Rule of Civil Procedure 17(a). Ward Lake remains a private person whom the State of Michigan entered into its mineral rights lease contract.

II. THE LEBLANCS DID NOT LOSE THEIR NINETH AMENDMENT RIGHTS BY DULY REMOVING THE CASE TO THE FEDERAL DISTRICT COURT.

On March 9, 1992, the LeBlancs duly removed the case from the State court to the Federal court primarily because the State of Michigan was a "real party in interest" with Ward Lake on the one hand, and because of the said State's above-said "conflicts of interest" between itself and the LeBlancs. As is stated in the case law titled Davis v. Gray, 83 U.S. at 221 (1872) reads:

"A party by going into National court

does not lose any right or appropriate remedy of which he might have availed himself in the State courts of the same locality. The wise policy of the Constitution gives him a choice of tribunals. In the former he may hope to escape the local influences which sometimes disturb the even flow of justice."

Next, the statutory language of M.C.L. 554.281 expressly bars the resurrection of a non-existant lease after an "affidavit of forfeiture" is recorded as was duly recorded on August 5, 1991. The LeBlancs for good reasons were justified in removing the case to the Federal court in their own good faith efforts to receive an impartial and a just adjudication of the case.

Therefore, under authority of law and of

circumstances, the only reasonable recourse to be had by the LeBlancs was to be found solely in the Federal court, and accordingly, the case was timely removed under the authority of 28 U.S.C. §§ 1441(a) and 1441 (e). Section 1441(e) provides:

> "The court to which such civil action is removed is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim."

III. THE LEBLANCS ARE ENTITLED TO SIMILAR CONSTITUTIONAL PROTECTIONS AFFORDED IN PRECEDENT OF HICKEY V. STEWART.

In the case law of Hickey v. Stewart, 3 How. at 760-761 (1845) many similarities

can be easily found when compared with the situation presented by the LeBlancs, e.g., compare the language of M.C.L. 554.281, supra, with the following holding of the Court in Hickey, supra:

> 'And upon the failure of the claimant to comply with these requirements, his claim is declared to be void, and shall never "be received or admitted as evidence in any court in the United States against any grant derived from the United States".' (Underlined emphasis added.)

Just as Ward Lake failed to notify the Otsego County Register of Deeds within the alloted time, so too did Stewart fail to notify the Land-office. Even more similar is the fact that Ward Lake attempted to challenge the "forfeiture" in the State

and Federal courts similar to what Stewart had attempted. Ultimately, the mandate of an Act of Congress was recognized as such in Hickey v. Stewart, and so too should M.C.L. 554.281 be recognized as a mandate and given due consequence, i.e., unable to be disturbed by judicial activism in any other similar circumstances.

In conclusion, the Federal district court as well as the United States Court of Appeals for the Sixth Circuit clearly failed to treat M.C.L. 554.281 with the same due deference as the United States Supreme Court has shown towards Acts of Congress.

IV. THE NATIONAL COURTS REMAIN OBLIGATED BY 28 U.S.C. § 1359'S MANDATE.

The Federal district court together with the United States Court of Appeals for the

Sixth Circuit grossly errored by permitting Ward Lake the opportunity to "resurrect a non-existant lease". As is aptly stated in case law titled Cramer v. Caribbean Mills, Inc., 394 U.S. at 829 (1969):

> 'Such "manufacture of Federal Jurisdiction" was the very thing which Congress intended to prevent when it enacted § 1359 and its predecessors.'

The Federal district court together with the United States Court of Appeals for the Sixth Circuit have continuiously ignored this Court's case law precedents as well as a particular Act of Congress, namely 28 U.S.C. § 1359. Direction is shown in a recently decided case titled Dalton v. Spector, ___ U.S. ___ (1994) Slip Opinion at page 15 provides a longstanding rule of law for all Federal courts as follows:

"[O]ur conclusion that judicial review is not available for respondents' claim follows from our interpretation of an Act of Congress, by which we and all federal courts are bound. The judicial power of the United States conferred by Article III of the Constitution is upheld just as surely by withholding judicial relief where Congress has permissibly foreclosed it, as it is by granting such relief where authorized by the Constitution or by statute. (Underlined emphasis added.)

Surely, M.C.L. 554.281 bars Ward Lake's unauthorized representations and its veiled attempts to resurrect a non-existant lease. After the case was properly removed to the Federal court by the LeBlancs on March 9, 1992, Ward Lake's case warranted immediate

dismissal under authority of 28 U.S.C. § 1359 because Ward Lake's civil action had been manufactured by improperly and collusively making itself a party by attempting to circumvent the mandate of the Michigan Legislature, i.e., M.C.L. 554.281.

CONCLUSION

For the reasons stated, the LeBlancs do respectfully request the Court to grant a Writ of Certiorari to review.

Respectfully submitted,

By: Robert B. LeBlanc, Pro Se
On behalf of himself and his spouse, Joan
9300 Island Drive
Grosse Ile, Michigan 48138
(313) 675 - 0323

No.

IN THE

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October Term, 1994

Robert B. LeBlanc; Joan S. LeBlanc,

Jointly And Severally,

Petitioners,

v.

WARD LAKE DRILLING, INC.,

Respondent.

On Petition for Writ of Certiorari To

The United States Court of Appeals

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APPENDIX TO PETITION FOR WRIT OF CERTIORARI

By: Robert B. LeBlanc, Pro Se

On behalf of himself and his spouse, Joan

9300 Island Drive

Grosse Ile, Michigan 48138

(313) 675 - 0323

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APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Nos. 94-1227/1273

WARD LAKE DRILLING, INCORPORATED,

Plaintiff-Appellee,

v.

ROBERT B. LEBLANC; JOAN S. LEBLANC,

Jointly and Severally,

Defendants-Appellants.

BEFORE: JONES and RYAN, Circuit Judges;

and KRUPANSKY, Senior Circuit Judge.

ORDER of July 6, 1994

This matter is before the court upon appellants' motion to address the resurrection of a nonexistant lease, the appellee's motion to dismiss the appeal for lack of jurisdiction and the responses to such motions.

Ward Lake Drilling, Inc. (Ward Lake), filed a complaint in state court containing four counts consisting of action to quiet title, declaratory judgment, breach of contract and unjust enrichment. On behalf of himself and his wife, Robert LeBlanc (LeBlanc) removed the action to federal court alleging that the declaratory judgment count presented a claim that a Michigan statute violated the Fourteenth Amendment. The district court accepted jurisdiction as to the declaratory judgment count and remanded the remaining state law claims back to state court. LeBlanc filed notices of appeal and this court dismissed the appeals for lack of jurisdiction (appeal No. 92-2234 and 92-2324). The state court granted a motion for summary disposition filed by Ward Lake. Accordingly, Ward Lake filed a motion in the [Federal] district court on January 14, 1994, to voluntarily dismiss the case on the basis of mootness. LeBlanc failed to concur in the motion to dismiss but did not file a response. By order filed February 3, 1994, the district court determined that the LeBlanc defen-

dants would not be prejudiced by a dismissal and the court granted the motion to voluntarily dismiss the case. LeBlanc filed motions to vacate or reconsider which were denied by order entered February 17, 1994. Robert LeBlanc filed notices of appeal on February 22 and March 8, 1994, on behalf of himself and his wife (appeal Nos. 94-1227 and 94-1273).

Initially, it should be noted that Robert LeBlanc has filed documents in this court and the [Federal] district court on behalf of himself and his wife. Parties may plead and conduct their own cases personally or by counsel as provided by 28 U.S.C. § 1654. Robert LeBlanc cannot represent his wife because he is not an attorney. See Lewis v. Lenc-Smith Mfg. Co., 784 F.2d 829, 830-31 (7th Cir. 1986)(per curiam). Accordingly, Robert LeBlanc is the only appellant in these appeals.

Ward Lake was granted a judgment in the state court and, accordingly, its argument in the federal court that a Michigan statute was unconstitutional as it applied to the particular facts of the case

became moot. It therefore sought and was granted voluntary dismissal. A matter of confusion is LeBlanc's consistant arguments that the federal court lacks jurisdiction; however, he was the one that removed the matter from the state court and seeks review of the [Federal] district court's voluntary dismissal by this court. The argument by Ward Lake that a Michigan statute was unconstitutional is moot. LeBlanc is not aggrieved by the [Federal] district court's dismissal and lacks standing to appeal. See Native Village of Tyonek v. Puckett, 957 F.2d 631, 633 (9th Cir. 1992) (order); Rafoth v. National Union Fire Ins. Co. (In re Baker & Getty Fin. Servs.), 954 F.2d 1169, 1174 (6th Cir. 1992).

Accordingly, it is ORDERED that the motion to dismiss is granted and the appeals are dismissed. Rule 8(a), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT on July 6, 1994.

Leonard Green, Clerk of the Court; 6th Circuit

APPENDIX B

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Nos. 94-1227/1273

WARD LAKE DRILLING, INCORPORATED,

Plaintiff-Appellee,

v.

ROBERT B. LEBLANC; JOAN S. LEBLANC,

Jointly and Severally,

Defendants-Appellants.

BEFORE: JONES and RYAN, Circuit Judges;

and KRUPANSKY, Senior Circuit Judge.

ORDER of August 25, 1994

This matter is before the court upon consideration of the petition for rehearing of this court's July 6, 1994,[order] which dismissed the appeal as moot. In the petition for rehearing, Robert LeBlanc

argues that he is permitted to represent his wife on appeal, that the case should be reheard and the issue of constitutionality of M.C.L. 554.281 certified to the Supreme Court, and, that if rehearing is denied, that the mandate be stayed for a period of at least 90 days.

A party can plead and conduct a case either pro se or be represented by an attorney pursuant to 28 U.S.C. § 1654. Case law has used this statute to prohibit a nonattorney from representing a person, even if that person is a spouse. Bonacci v. Kindt, 868 F.2d 1442, 1443 (5th Cir. 1989); Lewis v. Lenc-Smith Mfg. Co., 784 F.2d 829, 830-31 (7th Cir.1986) (per curiam); Herrera-Vanegas v. Sanchez-Rivera, 681 F.2d 41, 42 (1st Cir. 1982)(per curiam); Lindstrom v. Illinois, 632 F. Supp. 1535, 1537 (N. D. Ill. 1986). Although this statute [§ 1654] has not been amended, Fed. R. App. P. 3(c) was recently amended. Rule 3(c) now allows a pro se litigant to file a notice of appeal on behalf of himself and his spouse. Therefore, the notice of appeal filed

by Robert LeBlanc on behalf of himself and his wife was sufficient to make Joan S. LeBlanc an appellant to this appeal.

After careful consideration, the panel concludes that it acted under no misapprehension of law or fact in issuing its July 6, 1994, order dismissing the appeal as moot. Fed. R. App. P. 40(a).

Accordingly, the petition for rehearing is denied. The mandate of this court is stayed for 30 days pursuant to Fed. R. App. P. 41(b).

ENTERED BY ORDER OF THE COURT on August 25, 1994.

Leonard Green, Clerk of the Court; 6th Circuit

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Respectfully submitted,

By: Robert B. LeBlanc, Pro Se

On behalf of himself and his spouse, Joan

9300 Island Drive

Grosse Ile, Michigan 48138

(313) 675 - 0323

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October Term, 1994

ROBERT B. LEBLANC, JOAN S. LEBLANC,

Petitioners,

vs.

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Respondent.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Sixth Circuit

RESPONSE BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

PETER J. ZIRNHELT
PETER J. ZIRNHELT, P.C.
400 East Eight Street
P.O. Box 1067
Traverse City, MI 49685-1067
(616) 946-8630
(616) 946-3013 (facsimile)

Attorneys for Respondent,
Ward Lake Drilling, Inc.

November 28, 1994

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

16 pp

QUESTION PRESENTED

Whether the instant Petition should be dismissed because the questions presented by the Petitioners were not ruled upon by the trial court or appeals court, and further because the issues raised are not worthy of this Court's discretionary jurisdiction?

PARTIES

1. Petitioners, Robert L. LeBlanc and Joan S. LeBlanc ("LeBlancs") are individuals who reside in Grosse Ile, Wayne County, Michigan and own property in Otsego County, Michigan.

2. Respondent, Ward Lake Drilling, Inc. ("Ward Lake") is a Michigan corporation having its principal place of business in Gaylord, Otsego County, Michigan.

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RESPONDENT'S BRIEF IN OPPOSITION TO PETITIONERS' REQUEST FOR WRIT OF CERTIORARI

OPINIONS BELOW

Respondent-Appellee relies upon Petitioner-Appellants' statement of prior opinions.

JURISDICTION

Respondent-Appellee relies upon Petitioner-Appellants' statement of jurisdiction.

STATEMENT OF THE CASE

Ward Lake filed suit against Robert B. LeBlanc and Joan S. LeBlanc in the state circuit court for Otsego County, Michigan. *Ward Lake Drilling, Inc. v Robert B. LeBlanc and Joan S. LeBlanc,* case no. 92-5138-CH (filed February 24, 1992). The complaint, based upon the Defendants' erroneous use of Michigan's Lease Forfeiture Statute, Mich. Comp. Laws Sec. 554.281 (*Appendix C*), contained four counts; breach of contract, action to quiet title, unjust enrichment, and a declaratory judgment count, in which the Plaintiff asked the court to declare the above referenced state statute unconstitutional via the state and federal Constitutions.

The LeBlancs, pro se, responded to the state court action by removing it to the federal court on the basis of federal question jurisdiction. Ward Lake then filed a motion for remand, and the Honorable Robert S. Cleland,

federal district court judge for the Eastern District of Michigan, Northern Division, entered an order of partial remand; remanding back to the state circuit court three of the four counts. The federal district court retained jurisdiction of the declaratory judgment count. Soon after, the state of Michigan joined the federal suit, as the constitutionality of a state statute was in issue. Subsequently, after remand, Ward Lake filed a motion for summary disposition[1] in the state court action and the same was granted in its favor. As a result of the state court judgment, which was not appealed by the LeBlancs, the issue retained by the federal district court became moot. Ward Lake circulated a stipulation and order of dismissal to the parties concerning the federal court issue. The stipulation was signed by the state of Michigan, however, the LeBlancs never responded to the stipulation. Ward Lake then filed a motion for dismissal which was granted by the federal district court. The LeBlancs then filed a joint notice of appeal with the federal district court. Ward Lake filed a motion with the Sixth Circuit Court of Appeals requesting that the appeal of the LeBlancs be dismissed. Ward Lake's motion was granted and the LeBlancs requested a rehearing which was denied.

The LeBlancs have taken Ward Lake on a roller coaster ride through the already over burdened federal court system. They have previously filed two other interlocutory appeals to the Sixth Circuit Court of Appeals, both of which were dismissed. In summary, their three

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[1] Michigan Court Rule 2.116, the summary disposition rule, is synonymous with Fed.R.Civ.P. 56, the summary judgment rule.

previous appeals have been dismissed. Now, they rest their Petition on three unintelligible arguments that have no relationship to the action in the lower courts; that is, neither the federal trial court nor the federal appeals court ever ruled on any matters they here present. Furthermore, even if the lower courts had ruled on such issues, they are inappropriate for the Court's exercise of its discretionary jurisdiction.

SUMMARY OF ARGUMENT

I. This case presents no issue appropriate for the Court's exercise of its discretionary jurisdiction.

ARGUMENTS AND AUTHORITIES

I. Reasons for denial of Writ of Certiorari.

This case presents no previously undecided question of law. Further, it contains no issue which was adjudicated at the trial court, or ruled upon by the appeals court. The decision of the Sixth Circuit Court of Appeals does not conflict with any other court of appeals ruling on the same matter. The decision of the appeals court involves no important or compelling question of federal law which has not been, but should be settled by this Court.

The instant Petition is nothing more than a pro se litigant's attempt to raise on appeal to this Court, no matter how frivolous, issues never presented to the

courts below. It can only be concluded that the appeal was undertaken to occasion economic harm upon Ward Lake by having it incur substantial legal fees in responding. The LeBlancs can pride themselves with accomplishing the academic exercise of completing and filing a Petition for a Writ of Certiorari with the United States Supreme Court, but in reality all they have done is wasted the valuable time and resources of this Court and the Respondent. There can be no dispute that the issues raised by the LeBlancs in their Petition to this Court were never fully developed in either the federal trial court, or the federal appeals court as is evidenced by the lower court orders appended to LeBlancs' Petition. Additionally, even if the issues had been ruled upon, they are not of the nature to fall within this Court's discretionary jurisdiction.

It is well settled that jurisdiction to review judgments and decrees of the court of appeals by certiorari is to be exercised sparingly, and only in cases of gravity and general importance, or in order to secure uniformity of the decision. *Re Lau Ow Bew*, 141 U.S. 583, 12 S.Ct. 43, 35 L.Ed. 868, (1891); *Re Woods*, 143 U.S. 202, 12 S.Ct. 417, 36 L.Ed. 125 (1892); *Lau Ow Bew v United States*, 144 U.S. 47, 12 S.Ct. 517, 36 L.Ed. 340 (1892); *American Construction Company v Jacksonville, T. & K. W. R. CO.*, 148 U.S. 372, 13 S.Ct. 758, 37 L.Ed. 486 (1893); *Forsyth v Hammond*, 166 U.S. 506, 17 S.Ct. 665, 41 L.Ed. 1095 (1897); *Fields v United States*, 205 U.S. 292, 27 S.Ct. 543, 51 L.Ed. 807 (1907); *Hamliton Brown Shoe Company v Wolf Bros. & Company*, 240 U.S. 251, 36 S.Ct. 269, 60 L.Ed. 629 (1916); *Seney v Swift & Company*, 260 U.S. 146, 43 S.Ct. 22, 67 L.Ed. 167 (1922)

Clearly, because none of the issues raised by the LeBlancs in their Petition are of a genre that merit review by this Court, said Petition should be dismissed.

II. The issues presented by the LeBlancs in their petition are unintelligible, and were unresolved by the trial court or appeals court.

Ward Lake maintains that those issues raised by the LeBlancs were never ruled upon by either the trial court or the appeals court. Since the issues were never ruled upon, the result of raising undecided issues in the Petition should be dismissal. In effect, because the issues were never adjudicated, the Petition by the LeBlancs is technically deficient. It is required that the petition exhibit clear, definite, and composite disclosure and questions in controversy. *First National Bank v Chicago Title & Trust Company,* 198 U.S. 280, 25 S.Ct. 693, 49 L.Ed. 1051 (1905); *Southern Power Company v North Carolina Public Service Company,* 263 U.S. 508, 44 S.Ct. 164, 68 L.Ed. 413 (1924). Since the present Petition does not exhibit clear issues of questions in controversy, it should be dismissed.

CONCLUSION AND PRAYER

This case presents no issues which have been ruled upon by the federal trial court or federal court of appeals. Ward Lake prays that this Honorable Court deny the LeBlancs' Petition for Writ of Certiorari, and assess costs

against the LeBlancs because the Petition is frivolous and presents no issues appropriate for the Court's review.

Respectfully submitted,

PETER J. ZIRNHELT, P.C.
PETER J. ZIRNHELT (P24847)
Attorney for Respondent
Ward Lake Drilling, Inc.
400 East Eight Street
P.O. Box 1067
Traverse City, MI 49685-1067
(616) 946-8630

Dated: November 28, 1994

No. 94-779

In The

Supreme Court of the United States

October Term, 1994

ROBERT B. LEBLANC, JOAN S. LEBLANC

Petitioners,

vs.

WARD LAKE DRILLING, INC.,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

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Attached to Petitioners' Petition for Writ of Certiorari

Appendix C

MCL 554.281

Oil, gas, or mineral lease; forfeiture; procedure for surrender, effect on record .....App. 1

MCL 554.281 Oil, gas, or mineral lease; forfeiture; procedure for surrender, effect on record

Sec. 1. When any oil, gas or other mineral lease heretofore or hereafter given on land situated in any county of Michigan and recorded therein shall become forfeited, it shall be the duty of the lessee, his successors or assigns, within 60 days from the date of the taking effect of this act, if the forfeiture occurred prior thereto, and within 30 days after the date of the forfeiture of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, his successors or assigns, witnessed and acknowledged and placed on record in the county where the leased land is situated, without cost to the owner thereof: Provided, That if the said lessee, his successors or assigns shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said land may at any time after forfeiture serve upon said lessee, his successors or assigns, in person, or by registered letter, at his last known address, or by publication for 3 consecutive weeks in a newspaper of general circulation in the county where the land is situated, a notice in writing in substantially the following form:

"To . . . : I, the undersigned, owner of the following described land situated in . . . county, Michigan to wit: (description of land) upon which a lease dated the- . . . day of . . . , 19 . . . , was given to . . . , lessee, do hereby notify you that the terms of said lease have been broken by the owner thereof, that I hereby elect to declare and do declare the said lease forfeited and void, and that unless you do within 30 days from this date notify the register of deeds of said county as provided by law, that said lease

has been forfeited, I will file with the said register of deeds an affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same on record in the office of the register of deeds on said county within 30 days from this date.

Dated this . . . day of . . . , 19 . . .

And the owner of said land may after 30 days from the date of service, registration or first publication of said notice, file with the register of deeds of the county where said land is situated, an affidavit setting forth that the affiant is the owner of said land; that the lessee, or his successors or assigns, has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure; that the same has been forfeited and is void; and setting out in said affidavit a copy of the notice served as above provided and the manner and time of the service thereof.

If the lessee, his successors or assigns, shall within 30 days after the filing of such affidavit, give notice in writing to the register of deeds of the county where said lands are located that said lease has not been forfeited and that said lessee, his successors or assigns, still claim that said lease is still in full force and effect, then the said affidavit shall not be recorded, but the register of deeds shall notify the owner of the lands of the action of the lessee, his successors or assigns, and the owner of the land shall be entitled to the remedies now provided by law, for the cancellation of such disputed lease. If the lessee, his successors or assigns, shall not notify the register of deeds as above provided, then the register of deeds

shall record said affidavit and thereupon the said lease shall be null and void and of no legal effect, and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns against the lessor, his successors or assigns.

Supreme Court, U.S.
FILED
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(3)

No. 94-779

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1994

Robert B. LeBlanc; Joan S. LeBlanc,

Jointly And Severally,

Petitioners,

v.

WARD LAKE DRILLING, INC.,

Respondent.

On Petition For Writ Of Certiorari To The

United States Court Of Appeals

For The Sixth Circuit

PETITIONERS' SUPPLEMENTAL BRIEF

AND

SUPPLEMENTAL APPENDIX

By: Robert B. LeBlanc, Pro Se

On behalf of himself and his wife Joan

9300 Island Drive, Grosse Ile

Michigan 48138 (313) 675 - 0323

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On Petition For Writ Of Certiorari To The

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For The Sixth Circuit

PETITIONERS' SUPPLEMENTAL BRIEF

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States of America:

Petitioners, Robert B. LeBlanc; Joan S. LeBlanc (LeBlancs), Jointly and severally in propria persona, respectfully supplement their Petition for Writ of Certiorari pur-

suant to Rule 15.7 of the Supreme Court and calling attention to new intervening matters and thus, further reasons why the Writ should issue.

I. A WRIT SHOULD ISSUE TO SETTLE THE RECURRING QUESTION OF THE "SOVEREIGNITY" STATUS OF A STATE.

On November 14, this Court decided Case No. 93-1197 and titled Hess and Walsh v. Port Authority Trans-Hudson Corporation, ___ U.S.___ (1994), addressing an immediate question of Eleventh Ammendment immunity defense asserted by a Bi-State entity. This Court's majority found that the sovereignity question, if applied, would foreclose a reasonable remedy and thus reasonable relief to those seeking a redress of grievances for alleged wrongs.

This Court's dissenting Opinion (see slip dis. op. at p. 8) acknowledges, "It will be a rare case indeed where the state treasury foots the bill for an entity's

wrongs but fails to excercise a healthy degree of oversight over that entity." The enthyme or implicit premise that is seen in said dissenting statement is: that monetary penalties are a longstanding deterrence to private persons and might even be a sufficient deterrent to any liable State of the several States. Judicial notice shows that the several States have increasingly attempted to clothe their respective agencies, officers, municipalities and still others with sovereign immunity and thereby foreclosing reasonable remedies to those seeking justice. Associate Justice Stevens, in his concurring Opinion (see slip conc. op. pp. 1-3), bravely identifies without any hesitation the "engine of injustice." Justice Stevens observes (see slip conc. op. at p. 2), "Sovereign immunity inevitably places a lesser value on administering justice to the individual than on giving government a license to

act arbitrarily."

Therefore, this Court can elect to now focus its attention on the blurred relationships between a State and the people.

II. A WRIT SHOULD ISSUE TO CLARIFY THE MARKETPLACE RELATIONSHIPS BETWEEN A STATE AND THE PEOPLE.

A November 3, 1994, Editorial (see Appendix C, pp. 1c-3c) evidences via Judicial notice the blurred relationships (sovereign or private person) of the State of Michigan and its status in the marketplace. An implicit argument exists that the State of Michigan's status as a "sovereign", rather than that of "private person", apparently and once again presents a situation whereby certain "gas [drilling] companies" somehow possess sovereign immunity and license to arbitrarily act without consequence, rather than due attention being given to "conflicts of interest"

arising from said situation. In other words, the dynamics of the marketplace apparently have been short-circuited by these unresolved conflicts of accountability.

As 18th century Adam Smith was intrigued by the doctrine of laissez-faire (political economy) in the marketplace, and as Hess, supra, demonstrates: once a State attempts to lend out or wear its two hats (sovereign status and private person status) relationships become stymied. Individuals who, at almost every level of the judicial system, have little or no choice but to litigate with State's who then somehow arbitrarily assert immunity from suit and ultimately win most, if not all, quarrels or disputes with said private persons. If a private person makes a financial error that private person faces the consequences, however, when a State errors it almost always asserts sovereign immunity and it

thusly earns and receives the distrust of those persons who the State defrauds of due justice.

Just as the American People spoke on the 8th day of November, 1994, most Americans do continue to be prudent and peace-loving because, after all, it was the People of the United States of America who ordained and established the United States Constitution, as Amended, in order to establish harmony and social/economic justice, inter alia. The blurred notion of "sovereignity" and its arbitrary use has disturbed the homeostatic relationships that should rightfully exist between a State and private persons or individuals.

Therefore, the ripe question of "sovereignity" should be resolved so as to restore justice as this Court has focused on in Hess, supra, and more eloquently set forth by Justice Stevens who has objective-

ly isolated the issue: There is truely only one Eleventh Amendment. When a State descends from its plane of sovereignity by stepping-out of its sphere of immunity and transacts to form contracts with private persons, it should be held accountable thereafter for its transgressive acts or omissions.

CONCLUSION

For the reasons stated, and as a supplement to the LeBlancs Petition for a Writ of Certiorari, the LeBlancs do respectfully request the Court to grant a Writ of Certiorari to review.

Respectfully submitted,

By: Robert B. LeBlanc, Pro Se
On behalf of himself and his spouse, Joan
Jointly and severally Petitioners'
9300 Island Drive
Grosse Ile, Michigan 48138
(313) 675 - 0323

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PETITIONERS' SUPPLEMENTAL APPENDIX C

By: Robert B. LeBlanc, Pro Se
On behalf of himself and his wife Joan
9300 Island Drive
Grosse Ile, Michigan 48138
(313) 675 - 0323

APPENDIX C

EDITORIAL

GAYLORD HERALD TIMES; P.O.Box 598;
Gaylord, MI 49735; (517) 732 - 1111
page A-4, Thursday, November 3, 1994

"MINERAL OWNERS DESERVE FULL SHARE"

Some Antrim gas companies in the area are charging mineral rights owners for part of the costs incurred in producing the gas in contravention of their mineral rights leases.

In most leases, the language clearly states the owner of the mineral rights is to receive one-eighth of the gross proceeds of the sale of gas from the well. Gross proceeds means just what it says, not net proceeds, or what is left after the expense of producing the gas is deducted.

The gas companies contend the cost of producing Antrim gas has risen in the past few years. The utilities, such as MichCon and Consumer's Power, now require the removal of carbon dioxide from produced gas, necessitating the construction and

maintenance by the gas companies of expensive equipment.

In addition, the utilities no longer build pipelines for gathering gas all the way to the well, so the gas companies must bear the added expense of laying pipeline.

These are all good points. They were good enough that the State of Michigan recently allowed the gas companies to renegotiate their lease agreements with the state, allowing the deduction of some production costs.

IT APPEARS, however, that the gas companies then decided to apply that state agreement in a blanket manner to private mineral lease holders without entering into any negotiations whatsoever. In other words, they broke their plainly-worded lease agreements.

We think that is wrong.

We bet there was no hint of the possibility of such lease breaking when the gas companies were

trying to get mineral rights owners to sign those agreements. When the company landmen were sitting at the kitchen table, pen and lease agreement in hand, we bet all they talked about was the amount of income the well would produce.

We think the gas companies should negotiate any lease changes with the individual owners as they did with the state.

==========

Respectfully submitted,

By: Robert B. LeBlanc, Pro Se
On behalf of himself and his spouse, Joan
Jointly and Severally Petitioners'
9300 Island Drive
Grosse Ile, Michigan 48138
(313) 675 - 0323

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PETITIONERS' REPLY TO BRIEF IN OPPOSITION

By: Robert B. LeBlanc, Pro Se

On behalf of himself and his wife Joan

9300 Island Drive, Grosse Ile

Michigan 48138 (313) 675 - 0323

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PETITIONERS' REPLY TO BRIEF IN OPPOSITION

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States of America:

Petitioners', Robert B. LeBlanc; Joan S. LeBlanc (LeBlancs), Jointly and Severally in propria persona, respectfully present

objections with their Reply to Brief in Opposition pursuant to authority of Rule 15.6 of the Supreme Court. Certain key admissions, already having been previously made by Respondent WARD LAKE DRILLING, INC. (Ward Lake), further demonstrate reasons why a Writ of Certiorari should be granted by this Court.

I. A WRIT SHOULD ISSUE IN LIGHT OF WARD LAKE'S ADMISSIONS, TACIT AND/OR OTHERWISE.

Ward Lake failed to answer the LeBlancs Counter-Complaint (dated March 16, 1992), and therefore, under authority of Rule 8(d) of the Federal Rules of Civil Procedure, Ward Lake remains bound by the doctrine of estoppel by record from denying all of its said previous admissions.

Ward Lake's act of invoking the Federal District Court's jurisdiction by filing

its so-called "motion for remand" when viewed together with Ward Lake's failure to file an answer to the LeBlancs Counter-Complaint, thereby results with the consequence of Ward Lake improperly and collusively making itself a party contrary to 28 U.S.C. § 1359 and M.C.L. 554.281; at the very least.

Still, a good faith effort or attempt was made by the LeBlancs in the months of April/May, 1993, so as to initiate negotiations with Ward Lake so as to get the entire matter resolved and settled out of court. Ward Lake made its own choice of deciding to continue to pursue the matter in court.

Shortly thereafter, the State of Michigan's Department of the Attorney General sought concurrence to intervene as a Defendant. The State of Michigan received

only Ward Lake's consent to intervene. The LeBlancs prudently and expressly withheld consent to the State of Michigan's intervention primarily because of said State's already existing "conflicts of interest".

CONCLUSION

For the foregoing reasons, the LeBlancs do respectfully request that this Court should grant a Writ of Certiorari to review.

Respectfully submitted,

By: Robert B. LeBlanc, Pro Se
On behalf of himself and his spouse, Joan
Jointly and Severally Petitioners'
9300 Island Drive
Grosse Ile, Michigan 48138
(313) 675 - 0323